B were not liable as partners. *United States Wood Preserving Co.* v. *Lawrence et al.* (Conn. 1915), 95 Atl. 8.

It seems that the plaintiff would have been justified in assuming that the defendants were partners, if, as it alleged, it entered into the contract with them, relying entirely upon the letter and nature of the two prior contracts. The corporation, in a suit against it for the specific performance of either of those contracts, could have interposed numerous defenses. As defenses to such a suit instituted by the city the corporation could have insisted, first that it had no legal existence when the contract was made, and that said contract was nothing more than a promoter's contract, and therefore non-enforceable. *Davis & Rankin Bldg. Co.* v. *Hillsboro Creamery Co.*, 10 Ind. App. 42, 37 N. E. 549; *Gent.* v. *Mfgrs' & Merchants' Mutual Ins. Co.*, 107 Ill. 652; *Holyoke Envelope Co.* v. *United States Envelope Co.*, 182 Mass. 171, 65 N. E. 54. Secondly, the corporation could have maintained that the contract was not made with it, but with A & B, partners. *Barnet Line* v. *Blackmar*, 53 Ga. 98; *Hess* v. *Ferris*, 157 Ill. App. 37; *Harris* v. *Crary*, 67 Tex. 383, 3 S. W. 316; *Stearns* v. *Haven*, 14 Vt. 540; *Cirkel* v. *Croswell*, 36 Minn. 323, 31 N. W. 513; *McLowan* v. *American Pressed Tan Bark Co.*, 121 U. S. 575, 7 Sup. Ct. 1315. This second defense, together with the additional defense that a corporation, although formally incorporated, can transact no business until completely organized, could have been interposed to defeat a similar suit by the railway company. *Hart* v. *Salisbury*, 55 Mo. 318; *Owen* v. *Shepherd*, 19 U. S. App. 336; *Walton* v. *Oliver*, 49 Kan. 107, 33 Am. St. Rep. 355; 4 AM. & ENG. ENCY. OF LAW 197; BOONE, CORPORATIONS, § 113. On the effect of defective organization, see 13 MICH. L. REV. 271.

CORPORATIONS—PLEDGE OF STOCK.—The secretary of a corporation, being a debtor thereof, transferred to it, as security for a note, certain certificates of stock issued by the company and owned by him. Subsequently, he became indebted to defendant, whereupon he stole the certificates and delivered them to defendant as security for his note. *Held*, that the company was entitled to recover possession of the shares. *The Yamato* v. *The Bank of Southern California* (Calif. 1915), 149 Pac. 826.

The pledgee of stock, who holds the same without notice of prior equities, has an equitable title, which, as to third persons, is perfect, even though his name is not registered on the corporate books. *St. Louis Stoneware Co.* v. *Partridge*, 8 Mo. App. 580; *Baldwin* v. *Canfield*, 26 Minn. 43, 1 N. W. 261; *Appeal of Early*, 89 Pa. St. 411; *Ebry* v. *Guest*, 94 Pa. St. 160; *Plymouth Bank* v. *Bank of Norfolk*, 27 Pick. (Mass.) 454; *Rio Grande Cattle Co.* v. *Burns*, 82 Tex. 50, 17 S. W. 1043; *Parker* v. *Bethel Hotel Co.*, 96 Tenn. (12 Pickle) 252, 34 S. W. 209; *Port Townsend Nat. Bank* v. *Port Townsend Gas and Fuel Co.*, 6 Wash. 209, 34 Pac. 155; *Factors and Traders Ins. Co.* v. *Marine Drydock and Shipyard Co.*, 31 La. Ann. 149. Prima facie, the holder of a certificate of stock, properly indorsed, is the owner thereof (*Walker* v. *Detroit Transit Ry. Co.*, 47 Mich. 338, 11 N. W. 187); but such a certificate not having any of the qualities of negotiable paper, evidence may be adduced to prove that he is unlawfully detaining the shares of a person

of whose prior equitable title he has, or ought to have, notice. *Weaver* v. *Barden*, 49 N. Y. 286. The general rule is that purchasers and pledgees of stock are under no obligation to look beyond the stock certificate. *Lowry* v. *Commercial and Farmers' Bank*, Fed. Cas., 8, 581; *Anglo-California Bank* v. *Grangers' Bank*, 63 Cal. 359; *Knox* v. *Eden Musee American Co.*, 74 Hun. (N. Y.) 483, 26 N. Y. Supp. 482; *Albert* v. *Savings Bank of Baltimore*, 1 Md. Ch. 407; *Salisbury Mills* v. *Townsend*, 199 Mass. 115. LOWELL, TRANSFER OF STOCK, § 112. The defendant in the principal case sought to rely upon this general rule but the court deemed it inapplicable, because of the fact that the secretary was not acting as the corporation's agent in his dealings with defendant. There are cases, however, where, although the corporate officer was acting within the apparent scope of his authority; yet the pledgee was not permitted to retain the shares. It seems that the courts look not alone to the authority, or lack of authority, of the corporate officer, but also to the duty of the pledgee to inquire as to the real character of the official position held by the pledgor, and the nature of the transaction whereby the certificates were transferred to him. *Farrington* v. *South Boston Ry. Co.*, 150 Mass. 406, 23 N. E. 109, 15 Am. St. Rep. 222, 5 L. R. A. 849; *Hall* v. *Rose Hill & Evanston Road Co.*, 70 Ill. 673; *Wright's Appeal*, 99 Pa. St. 425; *Walker* v. *Detroit Transit Ry. Co.*, 47 Mich. 338, 11 N. W. 187.

DAMAGES—BREACH OF WARRANTY ON RESALE.—Plaintiff bought of defendant a large amount of seeds warranted to be of a certain variety. It did not appear from the evidence whether or not notice was given defendant that plaintiff intended to resell. Plaintiff did resell to one Marsh with a like warranty; Marsh sold said seed to others and contracted to purchase the whole product of such seed. The seeds were not of the variety warranted, and plaintiff now seeks to recover from defendant, for breach of the warranty, the damages arising by reason thereof on such resale, setting up his liability on the warranty to his sub-vendee, Marsh. *Held*, the warranty to the original vendee, the plaintiff, was carried forward to the sub-vendee only in case the original vendor, the defendant, was given notice at the time the seeds were purchased from him, that they were purchased for resale. When the warranty is so carried forward the measure of damages for its breach is the difference in market value between the crop produced and such crop as the specified variety of seed would have produced under like conditions. *Buckbee* v. *Hohenadel, Jr. Co.* (C. C. A., 1915), 224 Fed. 14.

The limitation on the recovery for breach of warranty in case of resale of seeds, viz., that such recovery will be allowed only in case the original vendor was notified at time of purchase from him that the seeds were bought for resale, is authoritatively announced in this case for the first time. The court quotes the following from SUTHERLAND, DAMAGES, (3rd Ed.) 675: "Where seeds are sold with a warranty that they are of a kind identified by a particular name, with notice that the purchaser intends to sell them again to persons who will purchase for the purpose of sowing them, if the warranty is untrue there seems to be no difference in principle as to the subject of damages between such a sale and one with such warranty where the